

LEGISLATIVE COUNCIL
FILE COPY

96TH CONGRESS
1ST SESSION

S. 977

To amend the Export Administration Act of 1969, as amended, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 23 (legislative day, APRIL 9), 1979

Mr. PROXMIRE (by request) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Export Administration Act of 1969, as amended, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2 of the Export Administration Act of 1969, as
4 amended (50 U.S.C. App. 2401), is further amended by—
5 (a) revising subsection (2) to read as follows:
6 “The export of goods or technology without regard to
7 whether it makes a significant contribution to the mili-
8 tary potential of individual countries or combinations of

1 countries may adversely affect the national security of
2 the United States.”;

3 (b) revising subsection (3) to read as follows:

4 “The restriction of exports from the United States can
5 have serious adverse effects on the balance of pay-
6 ments and on domestic employment, particularly when
7 restrictions applied by the United States are more ex-
8 tensive than those imposed by other countries.”; and

9 (c) adding at the end thereof the following two
10 new subsections:

11 “(6) Exports are important to the economic well-being
12 of the United States.

13 “(7) It is important that the administration of export
14 controls imposed for national security purposes give special
15 emphasis to the need to control exports of technology (and
16 goods which contribute significantly to the transfer of such
17 technology) which could make a significant contribution to
18 the military potential of any country or combination of coun-
19 tries which would be detrimental to the national security of
20 the United States.”.

21 SEC. 2. Section 3 of the Export Administration Act of
22 1969, as amended (50 U.S.C. App. 2402) is further amended
23 by—

24 (a) revising subsection (2) to read as follows: “It
25 is the policy of the United States to use export con-

1 trols to the extent necessary to restrict the export of
2 (A) goods and technology which would make a signifi-
3 cant contribution to the military potential of any coun-
4 try or combination of countries which would prove det-
5 rimental to the national security of the United States;
6 (B) goods and technology where necessary to further
7 significantly the foreign policy of the United States or
8 to fulfill its international responsibilities; and (C) goods
9 where necessary to protect the domestic economy from
10 the excessive drain of scarce materials and to reduce
11 the serious inflationary impact of foreign demand.”;

12 (b) deleting in subsection (5) “articles, materials,
13 supplies, or information” and inserting in lieu thereof,
14 “goods, technical data, or other information”;

15 (c) deleting in subsection (6) “articles, materials,
16 or supplies, including technical data or other informa-
17 tion,” and inserting in lieu thereof, “goods, technical
18 data, or other information”; and

19 (d) adding at the end thereof the following new
20 subsection:

21 “(9) It is the policy of the United States to cooperate
22 with other nations with which the United States has defense
23 treaty commitments in restricting the export of goods and
24 technical data which would make a significant contribution to
25 the military potential of any country or combination of coun-

1 tries which would prove detrimental to the security of the
2 United States and of those countries with which the United
3 States has defense treaty commitments.”.

4 SEC. 3. Section 4 of the Export Administration Act of
5 1969, as amended (50 U.S.C. App. 2403), is further amend-
6 ed by—

7 (a) deleting “nations with which the United
8 States is engaged in trade” in subsection (a), para-
9 graph (1), and inserting in lieu thereof “countries with
10 which the United States has diplomatic or trading rela-
11 tions”;

12 (b) deleting “articles, materials, or supplies, in-
13 cluding technical data or other information,” in subsec-
14 tion (a), paragraph (1), and inserting in lieu thereof
15 “goods and technical data”;

16 (c) deleting the last sentence of subsection (a),
17 paragraph (1);

18 (d) revising subsection (b), paragraph (1) to read
19 as follows: “To the extent necessary to carry out the
20 policies set forth in section 3 of this Act, the President,
21 by rule or regulation, may prohibit or curtail the
22 export of any goods, technology, or any other informa-
23 tion subject to the jurisdiction of the United States or
24 exported by any person subject to the jurisdiction of
25 the United States. To the extent necessary to achieve

1 effective enforcement of this Act, these rules and regu-
2 lations may apply to the financing, transporting, and
3 other servicing of exports and the participation therein
4 by any person. In curtailing exports to carry out the
5 policy set forth in section 3(2)(C) of this Act, the Presi-
6 dent is authorized and directed to allocate a portion of
7 export licenses on the basis of factors other than a
8 prior history of exportation.”;

9 (e) deleting “(C)” in subparagraph (A), paragraph
10 (2), subsection (b), and inserting in lieu thereof “(A),”
11 and by deleting the last sentence of that subparagraph;

12 (f) deleting “articles, materials, or supplies, in-
13 cluding technical data or other information” in subpar-
14 agraph (B), paragraph (2), subsection (b) and inserting
15 in lieu thereof “goods, technical data, or any other in-
16 formation,” and adding the following sentence at the
17 end of that subparagraph: “In administering export
18 controls for foreign policy purposes, weight will be
19 given to whether the goods or technology in question
20 are also available from countries other than the United
21 States.”;

22 (g) deleting “(A)” in paragraph (1), subsection (c),
23 and inserting in lieu thereof “(C)”;

24 (h) deleting “(C)” in paragraph (1), subsection (f),
25 and inserting in lieu thereof “(A)”;

1 (i) deleting "(A)" in paragraph (3), subsection (f),
2 and inserting in lieu thereof "(C)";

3 (j) inserting after the words "national security" in
4 the first sentence of subparagraph (A), paragraph (2),
5 subsection (g), the words "and foreign policy";

6 (k) deleting "(A)" as it appears in subsection (i)
7 and inserting in lieu thereof "(C)";

8 (l) relettering that subsection (m) which begins
9 with the words, "No article, material, or supply," as
10 subsection (n);

11 (m) deleting "article, material, or supply, includ-
12 ing technical data or other information," in relettered
13 subsection (n) and inserting in lieu thereof "goods,
14 technical data, or any other information,"; and

15 (n) adding at the end thereof the following two
16 new subsections:

17 "(o)(1) Any United States firm, enterprise, or other non-
18 governmental entity which, for commercial purposes, enters
19 into an agreement with an agency of a government in an-
20 other country to which exports are restricted for national se-
21 curity purposes, which agreement cites an intergovernmental
22 agreement calling for the encouragement of technical cooper-
23 ation and is intended to result in the export from the United
24 States to the other party of unpublished technical data of

1 United States origin, shall report such agreement to the Sec-
2 retary of Commerce.

3 “(2) The provisions of this subsection shall not apply to
4 colleges, universities, or other educational institutions.

5 “(3) The Secretary of Commerce is authorized to issue
6 such rules and regulations as are necessary to implement the
7 provisions of this subsection.

8 “(p) The Secretary of State, in consultation with the
9 Secretary of Defense, the Secretary of Commerce, and the
10 heads of other appropriate departments and agencies, shall be
11 responsible for negotiations with other countries regarding
12 their cooperation in restricting the export of goods and tech-
13 nologies whose export should be restricted pursuant to sec-
14 tion 3(9) of this Act, as authorized under section 4(b)(1) of
15 this Act, including negotiations on the basis of approved ad-
16 ministration positions as to which goods and technologies
17 should be subject to multilaterally agreed export restrictions
18 and what conditions should apply for exceptions from those
19 restrictions.”.

20 SEC. 4. Section 5 of the Export Administration Act of
21 1969, as amended (50 U.S.C. App. 2404), is further amend-
22 ed by—

23 (a) deleting “Federal Energy Administration” in
24 subsection (a) and inserting in lieu thereof “Depart-
25 ment of Energy”;

1 (b) deleting "article, material, or supply" in para-
2 graph (2), subsection (b) and inserting in lieu thereof
3 "goods";

4 (c) deleting "(A)" in paragraph (2), subsection (b)
5 and inserting in lieu thereof "(C)";

6 (d) deleting "articles, materials, and supplies, in-
7 cluding technical data and other information" each
8 time it appears in paragraph (1), subsection (c) and in-
9 serting in lieu thereof "goods and technical data";

10 (e) deleting from paragraph (2), subsection (c) "ar-
11 ticles, materials, and supplies, including technical data
12 or other information" and inserting in lieu thereof,
13 "goods and technical data";

14 (f) deleting the following sentence from paragraph
15 (2) subsection (c): "The Secretary shall include in each
16 semiannual report required by section 10 of this Act an
17 accounting of the consultation undertaken pursuant to
18 this paragraph, the use made of the advice rendered by
19 the technical advisory committees pursuant to this
20 paragraph, and the contributions of the technical advi-
21 sory committees in carrying out the policies of this
22 Act."; and

23 (g) deleting from paragraph (5), subsection (c),
24 "articles, materials, and supplies" and inserting in lieu
25 thereof "goods and technical data".

1 SEC. 5. Section 6 of the Export Administration Act of
2 1969, as amended (50 U.S.C. App. 2405) is further amended
3 by—

4 (a) revising subsection (a) to read as follows:
5 “Except as provided in subsection (b) of this section,
6 whoever knowingly violates any provision of this Act
7 or any regulation, order, or license issued thereunder
8 shall be fined not more than five times the value of the
9 exports involved or \$50,000, whichever is greater, or
10 imprisoned not more than five years, or both.”;

11 (b) revising subsection (b) to read as follows:
12 “Whoever willfully exports anything contrary to any
13 provision of this Act or any regulation, order, or li-
14 cense issued thereunder, with knowledge that such ex-
15 ports will be used for the benefit of any country to
16 which exports are restricted for national security or
17 foreign policy purposes, shall be fined not more than
18 five times the value of the exports involved or
19 \$100,000, whichever is greater, or imprisoned not
20 more than ten years, or both.”; and

21 (c) deleting “articles, materials, supplies, or tech-
22 nical data or other information” from subparagraph
23 (A), paragraph (2), subsection (c) and inserting in lieu
24 thereof, “goods, technical data, or any other informa-
25 tion”.

1 SEC. 6. Section 7 of the Export Administration Act of
2 1969, as amended (50 U.S.C. App. 2406) is further amended
3 by—

4 (a) revising subsection (c) to read as follows:
5 “Except as otherwise provided by the third sentence of
6 section 4A(b)(2) and by section 6(c)((2)(C) of this Act,
7 information obtained under this Act which is deemed
8 confidential or with reference to which a request for
9 confidential treatment is made by the person furnishing
10 such information shall be exempt from disclosure under
11 section 552(b)(3)(B) of title 5, United States Code, and
12 such information shall not be published or disclosed
13 unless the Secretary of Commerce determines that the
14 withholding thereof is contrary to the national interest.
15 Nothing in this act shall be construed as authorizing
16 the withholding of information from Congress, and all
17 information obtained at any time under this Act or pre-
18 vious Acts regarding the control of exports, including
19 any report or license application required under section
20 4(b), shall be made available upon request to any com-
21 mittee or subcommittee of Congress of appropriate ju-
22 risdiction. No such committee or subcommittee shall
23 disclose any information obtained under this Act or
24 previous Acts regarding the control of exports which is
25 submitted on a confidential basis unless the full com-

1 mittee determines that the withholding thereof is con-
2 trary to the national interest.”;

3 (b) deleting the last sentence of subsection (d); and

4 (c) deleting subsection (e).

5 SEC. 7. Section 9 of the Export Administration Act of
6 1969, as amended (50 U.S.C. App. 2408), is repealed.

7 SEC. 8. Section 10 of the Export Administration Act of
8 1969, as amended (50 U.S.C. App. 2409) is revised to read
9 as follows:

10 “REPORT

11 “SEC. 9. (a) The Secretary of Commerce shall make an
12 annual report to the President and to the Congress on the
13 implementation of this Act.

14 “(b) Each annual report shall include an accounting
15 of—

16 “(1) actions taken by the President and the Secre-
17 tary of Commerce to effect the antiboycott policies set
18 forth in section 3(5) of this Act;

19 “(2) organizational and procedural changes insti-
20 tuted and any reviews undertaken in furtherance of the
21 policies set forth in this Act;

22 “(3) efforts to keep the business sector of the
23 Nation informed about policies and procedures adopted
24 under this Act;

1 “(4) any changes in the exercise of the authorities
2 of section 4(b) of this Act;

3 “(5) the results of review of United States policy
4 toward individual countries called for in section
5 4(b)(2)(A);

6 “(6) evidence demonstrating a need to impose
7 export controls for national security purposes in the
8 face of foreign availability as set forth in section
9 4(b)(2)(B);

10 “(7) the information contained in the reports re-
11 quired by section 4(c)(2) of this Act, together with an
12 analysis of—

13 “(A) the impact on the economy and world
14 trade of shortages or increased prices for com-
15 modities subject to monitoring under this Act or
16 section 812 of the Agricultural Act of 1970;

17 “(B) the worldwide supply of such commod-
18 ities; and

19 “(C) actions being taken by other nations in
20 response to such shortages or increased prices;

21 “(8) delegations of authority by the President as
22 provided for under section 4(e) of this Act;

23 “(9) the number and disposition of export license
24 applications taking more than ninety days to process
25 pursuant to section 4(g) of this Act;

1 “(10) consultations undertaken with technical ad-
2 visory committees pursuant to section 5(c) of this Act,
3 the use made of advice given, and the contribution
4 such committees made in carrying out the policies of
5 this Act;

6 “(11) violations of the provisions of this Act and
7 penalties imposed pursuant to this Act; and

8 “(12) any revisions to reporting requirements pre-
9 scribed in section 7(d).

10 “(c) The heads of other involved departments and agen-
11 cies shall fully cooperate with the Secretary of Commerce in
12 providing all information required by the Secretary of Com-
13 merce to complete the annual reports.”.

14 SEC. 9. Section 11 of the Export Administration Act of
15 1969, as amended (50 U.S.C. App. 2410), is renumbered as
16 section 10.

17 SEC. 10. Section 12 of the Export Administration Act
18 of 1969, as amended (50 U.S.C. App. 2411) is amended
19 by—

20 (a) renumbering it as section 11; and

21 (b) deleting “section 414 of the Mutual Security
22 Act of 1954 (22 U.S.C. 1934).” in subsection (b) and
23 inserting in lieu thereof “section 38 of the Arms
24 Export Control Act (22 U.S.C. 2778).”.

1 SEC. 11. Section 13 of the Export Administration Act
2 of 1969, as amended (50 U.S.C. App. 2411a) is further
3 amended by—

4 (a) renumbering it as section 12;

5 (b) revising subsection (a) to read as follows:

6 “(a) For fiscal years commencing on or after October 1,
7 1979, there are hereby authorized to be appropriated to the
8 Department of Commerce such sums as may be necessary to
9 carry out the purposes of this Act.”; and

10 (c) adding at the end thereof the following new
11 subsection:

12 “(c) For fiscal years commencing on or after October 1,
13 1979, there are hereby authorized to be appropriated to the
14 Department of State such sums as may be necessary to im-
15 plement the provisions of sections 3(9) and 4(p) of this Act.”.

16 SEC. 12. Section 15 of the Export Administration Act
17 of 1969, as amended (50 U.S.C. App. 2413), is further
18 amended by deleting “1979” and inserting in lieu thereof
19 “1983”.

20 SEC. 13. Sections 14 and 15 of the Export Administra-
21 tion Act of 1969, as amended (50 U.S.C. App. 2412 and
22 2413), are renumbered as section 13 and section 14, respec-
23 tively.

15

1 SEC. 14. As of October 1, 1979, the Mutual Defense
2 Assistance Control Act of 1951, as amended (22 U.S.C.
3 1611-1613d), is superseded.

○